

FISH & RICHARDSON P.C.

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

Suite 1100
919 N. Market Street
P.O. Box 1114
Wilmington, Delaware
19899-1114

Telephone
302 652-5070

Facsimile
302 652-0607

Web Site
www.fr.com

June 7, 2006

Chief Judge Sue L. Robinson
United States District Court
844 King Street
Wilmington, DE 19801

Re: SRI International Inc. v. Internet Security Systems, Inc., et al.
USDC-D. Del. - C. A. No. 04-1199 (SLR)



ATLANTA

AUSTIN

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TWIN CITIES

WASHINGTON, DC

Dear Chief Judge Robinson:

SRI respectfully submits this letter to request that it be permitted to assert two claims that it did not and could not assert until after the completion of third party discovery.

Fact discovery in this case continued until just days prior to the submission of SRI's expert reports. During third party depositions, SRI obtained evidence confirming the basis for asserting claims relating to the location at which monitors are deployed in customer networks. Based on this evidence, SRI's expert identified 33 infringed claims which had not been previously identified in SRI's interrogatory responses. At the May 17, 2006 hearing on this issue, the Court indicated that while it would not permit SRI to add 33 claims, it would consider the addition of a few claims. [See **Ex. A**, May 17, 2006 Hearing Transcript at 45:10-14.]

Attempting to resolve this issue without the the Court's further involvement, SRI proposed narrowing the 33 claims to just two claims – claims 74 and 78 of the '615 patent. [See **Ex. B**, May 22, 2006 Letter from Howard Pollack to Paul Grewal and Theresa Moehlman.] These two claims differ from previously asserted claims of the '615 patent only in that they require that monitors be deployed in a Virtual Private Network or VPN. Defendants' will not be prejudiced by the addition of these two claims as Defendants' invalidity experts have already addressed monitor deployment in VPNs in the context of their analysis of the claims of the '338 patent. Nonetheless, Defendants object to the addition of these two claims. [See **Ex. C**, May 30, 2006 Letter from Renee Brown and Theresa Moehlman to Howard Pollack.] In light of its inability to have previously asserted these claims, and the lack of prejudice to

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Defendants, SRI respectfully requests that it be permitted to continue to assert claims 74 and 78 of the '615 patent.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John F. Horvath", with a long, sweeping horizontal stroke extending to the right.

John F. Horvath

JFH/db

cc: Paul S. Grewal, Esquire
Holmes J. Hawkins, III, Esquire
Theresa A. Moehlman, Esquire
Richard L. Horwitz, Esquire
Richard K. Herrmann, Esquire

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